

### **REMARKS**

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

#### **Allowable Subject Matter**

Applicant gratefully acknowledges the indication, at page 5 of the Office Action, that the subject matter of Claims 6-8, 20, 25, and 26 contain allowable subject matter.

#### **Summary of Office Action**

In the Office Action, beginning at page 2, claims 1, 5, 14, and 18 under 35 U.S.C. § 102(b) are rejected as being anticipated by U.S. Patent Publication No. 2002/0093820 to Pederson (the '820 publication). In addition, beginning at page 3, claims 2-4, 12, 13, 15-17, 21-24, and 27-32 were rejected under 35 U.S.C. § 103(a) as being obvious over the '820 publication.

#### **Summary of Response to Office Action**

By this Amendment, claims 1, 5, 7, 8, and 26 are amended, claim 6 is cancelled without prejudice or disclaimer, and dependent claims 33 and 34 are added. Claims 1-5, 7-10, and 12-34 remain pending in this application, with claims 1, 5 and 14 being the only independent claims.

#### **The Claims Define Allowable Subject Matter**

Claims 1, 5, 14, and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by the '820 publication. Applicant respectfully traverses this rejection, and requests reconsideration for the following reasons.

Applicant gratefully acknowledges the Examiner's indication that claim 6 includes allowable subject matter. Accordingly, by this Amendment, claims 1 and 5 have been amended

to include those features from claim 6 that are indicated as being allowable. Accordingly, withdrawal of the rejection of claims 1 and 5 is respectfully requested.

With regard to claim 14, it is respectfully submitted that the '820 publication fails to disclose each and every feature of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

In the present application, claim 14 recites a combination of features, including in part: a plurality of LED elements located adjacent the base and formed in a non-symmetrical array such that light emitted from the LED elements forms a light distribution pattern.

At least this feature of claim 14 is neither taught nor suggested by the '820 publication. With respect to the disclosure of the '820 publication, page 3 of the May 4, 2006 Office Action indicates that "the array in which the LEDs are configured in is considered to be non-symmetrical because Pederson [the '820 publication] does [not] specifically teach it to be symmetrical." It is respectfully submitted that the logic used in coming to the above-noted conclusion in the Office Action is in error, and that the '820 publication simply fails to either explicitly or implicitly disclose the above features of claim 14. Moreover, because a reference fails to explicitly teach or disclose a particular characteristic does not mean that it automatically teaches the opposite characteristic. Furthermore, the '820 publication includes several drawings, none of which show a plurality of LED elements located adjacent the base and formed in a non-symmetrical array such that light emitted from the LED elements forms a light distribution pattern. Because, the '820 publication fails to disclose or teach at least this feature of claim 14, it is respectfully submitted that the '820 publication cannot serve as an anticipatory reference to Applicant's claim 14. Withdrawal of the rejection of claim 14 under 35 U.S.C. §102(b) is respectfully requested.

Further, since claims 18 depends from and respectively incorporate all the features of claim 14, claim 18 is also not anticipated by the '820 publication at least for the above reasons for which claim 14 is not anticipated, and for the separate and distinct features that it recites.

Thus, Applicant respectfully requests that the rejection of all claims 1, 5, 14 and 18 under 35 U.S.C. § 102(b) be withdrawn for at least the above-noted reasons.

**Rejection under 35 U.S.C. § 103(a)**

In the Office Action, beginning at page 3, Claims 2-4, 12, 13, 15-17, 21-24, and 27-32 were rejected under 35 U.S.C. § 103(a) as reciting subject matter that is allegedly obvious, and therefore allegedly unpatentable, over the disclosure of U.S. Patent Publication No. 2002/0093820 to Pederson (the US'820 patent publication). This rejection is respectfully traversed, and Applicant requests reconsideration for at least the following reasons.

With respect to claims 2-4, 12, 13, 21, 23, 24, and 27-29, it is respectfully submitted that these claims are allowable at least based on their dependency from claims 1 or 5 (which are in allowable format as described above) and for the separate features that they recite.

With respect to claims 15-17, 22, and 30-32, it is respectfully submitted that the '820 publication fails to disclose or teach each and every feature of claim 14, as indicated above, from which each of these claims depends.

The Office bears the initial burden of establishing a *prima facie* case of obviousness. M.P.E.P. § 2142. If the Office fails to set forth a *prima facie* case of obviousness, Applicant is under "no obligation to submit evidence of nonobviousness," such as unexpected results or commercial success. *Id.* In other words, if the Office fails to meet the initial burden of establishing a *prima facie* case of obviousness as to a given claim, then that claim is not obvious without any specific evidence of nonobviousness by Applicant.

In order to establish a *prima facie* case of obviousness, the Office must satisfy three requirements. M.P.E.P. § 2142. First, "the prior art reference, or references when combined, must teach or suggest *all* the claim limitations." *Id.* (emphasis added). Second, the Office must

show that there is "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." *Id.* Finally, "there must be a reasonable expectation of success." *Id.*

In this case, the first prong of the three part test for a *prime facie* case for obviousness is clearly not met. The '820 publication fails to disclose or teach at least the feature of a plurality of LED elements located adjacent the base and formed in a non-symmetrical array such that light emitted from the LED elements forms a light distribution pattern, as recited in claim 14. With claim elements missing, there is no way to provide any motivation to combine features to arrive at the presently claimed invention, and no way to determine whether there would be a reasonable likelihood of success for a product that included the absent features. Therefore, it is respectfully submitted that the rejection of claims 2-4, 12, 13, 21, 23, 24, and 27-29 is in error. Withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

## **Conclusion**

Applicant respectfully submits that the present patent application is in condition for allowance at least for the reasons stated above. In addition, while the claimed combinations are patentable over the cited art for the reasons presented by the Examiner in the May 4, 2006 Office Action, it is respectfully submitted that the claimed combinations are patentable for many different and/or additional reasons. More specifically, the patentability of the claimed combinations is not limited to (nor necessarily relies on) the particular subset of features identified in the Examiner's Statement, but rather it is the entire combination of elements and/or steps in the claims, each taken as a whole, that are patentable over the prior art, both taken alone and in hypothetical combination. An early indication of the allowability of this patent application is therefore respectfully solicited.

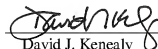
If the patent examiner believes that a telephone conference with the undersigned would expedite passage of this patent application to issue, they are invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. If, however, additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to the Deposit Account listed on the original application transmittal papers filed in this application.

Respectfully submitted,

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